

# MEMORANDUM

February 16, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: KENNETH A. MARANGA  
Maranga \* Morgenstern

OWEN L. GALLAGHER  
Principal Deputy County Counsel  
General Litigation Division

RE: **Robert Johnson v. County of Los Angeles**  
**Los Angeles Superior Court, South District Case No. NC035233**

DATE OF  
INCIDENT: December 6, 2002, through February 21, 2003

AUTHORITY  
REQUESTED: \$160,000

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

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## CLAIMS BOARD ACTION:

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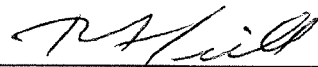
Approve

☐

Disapprove

☒

Recommend to Board of  
Supervisors for Approval



, Chief Administrative Office

ROCKY ARMFIELD



, County Counsel

JOHN F. KRATTLI



, Auditor-Controller

MARIA M. OMS

on March 7, 2005

## SUMMARY

This is a recommendation to settle for \$160,000, the medical negligence lawsuit brought by Robert Johnson for the injuries he sustained as the result of treatment he received at the Long Beach Comprehensive Health Center from December 6, 2002, through February 21, 2003. There is no Medi-Cal lien.

## LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## SUMMARY OF FACTS

On October 9, 2002, Robert Johnson, a 46-year-old man, was seen at the Long Beach Comprehensive Health Center for treatment of a small inflamed ulcer on the calf of his right leg. The ulcer was cleaned and treated with an anti-bacterial ointment, and Mr. Johnson was discharged with a follow-up appointment scheduled for November 27, 2002.

On November 26, 2002, Mr. Johnson returned to the Long Beach Comprehensive Health Center. Medical personnel determined that the ulcer on the calf of his right leg was still present, and was surrounded by an infection of soft tissue (cellulitis). Mr. Johnson was given antibiotics to treat the cellulitis, and discharged with a follow-up appointment scheduled for December 6, 2002.

On December 6, 2002, Mr. Johnson returned to the Long Beach Comprehensive Health Center. It was noted that Mr. Johnson's right calf appeared to be swollen. Medical personnel determined that the failure of the calf ulcer to heal despite the continued use of antibiotics was due to a disorder in which the normal flow of blood through a vein is slowed or halted (venous stasis). However, medical personnel failed to consider alternative treatments for the ulcer once a diagnosis of venous stasis had been made. Mr. Johnson was given additional antibiotics, and discharged with a follow-up appointment scheduled for December 18, 2002.

Robert Johnson was seen at the Long Beach Comprehensive Health Center for follow-up examinations on December 18, 2002, January 2, 2003, January 17, 2003, January 27, 2003, January 31, 2003, and on February 21, 2003. Although at each examination medical personnel found Mr. Johnson's right calf ulcer had not healed, they believed that it was improving. However, in spite of the continued inability of antibiotics to cure the infection, and in spite of the December 6, 2002, diagnosis of venous stasis, medical personnel failed to consider alternative treatments for the ulcer.

On March 1, 2003, Robert Johnson was seen in the Emergency Room at Harbor/UCLA Medical Center with complaints of a swollen right leg, and a foul odor with purulent drainage emitting from the ulcer on his right calf.

On March 3, 2003, and on March 19, 2003, Mr. Johnson underwent surgical procedures to irrigate and remove devitalized tissue from the infected area of the calf ulcer until healthy tissue is exposed (debridement), and on March 26, 2003, and on April 7, 2003, he underwent skin grafting procedures to cover the wounds to his right calf. On April 14, 2003, Mr. Johnson was discharged.

Robert Johnson currently must elevate his right leg 3 to 4 hours a day, and must wear supportive hose due to swelling (edema) of his right leg caused by damage to the vascular tissue resulting from the prolonged infection in his right calf.

### DAMAGES

If this matter proceeds to trial, the claimant will likely seek the following:

Robert Johnson,	
Loss of Future Earnings	\$216,000
Pain and Suffering (MICRA limit)	<u>\$250,000</u>
TOTAL	\$466,000

The proposed settlement includes:

Robert Johnson,	
Cash Settlement	\$103,250
Attorneys Fees (MICRA Estimate)	\$ 49,750
Costs of Litigation	<u>\$ 7,000</u>
TOTAL	\$160,000

### STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through February 7, 2005, are attorneys fees of \$26,492 and \$6,665 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$160,000
County Attorneys Fees and Costs	<u>\$ 33,157</u>
TOTAL	\$193,157

## EVALUATION

Medical experts will be critical of the failure of medical personnel on December 6, 2002, through February 21, 2003, to consider alternative treatments for Mr. Johnson's calf ulcer once a diagnosis of venous stasis had been made. This failure fell below the standard of care and is directly responsible for the results observed here.

We join with our private counsel, Maranga \* Morgenstern, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$160,000.

The Department of Health Services concurs in this settlement.